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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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7590

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William C. Tritt
Renner, Otto, Boisselle & Sklar, LLP
Nineteenth Floor
1621 Euclid Avenue
Cleveland, OH 44115-2191

EXAMINER

CHANG, VICTOR S

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 06/23/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/028,867

Applicant(s)

KO ET AL.

Examiner

Victor S Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final. ..
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is appears that the many claims in their present form are replete with redundant, vague and indefinite phrases, rendering the claims incomprehensible. For example:

In claim 1, lines 1-2, the three "at least" appears redundant in a "comprising" claim. Similarly, in claims 2 and 3, and throughout the remaining claims, the phrase "at least" appears to be redundant, the Examiner suggests deletion when it is deemed to be redundant.

In claim 1, line 3, the phrase "a major amount" is vague and indefinite, i.e., it is not clear as to the scope of the limitation. Further, at line 4, the term "comprise" is vague, indefinite and confusing, the Examiner suggests to delete it.

Claims 23 and 24 appear to be incorrectly dependent upon claim 18, which is clearly not a plastisol. For the purpose of this Office action, it is presumed that claims 23 and 24 are dependent upon claim 22.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kushida et al. (US 5344864).

Kushida's invention is directed to a PVC thermoplastic elastomer composition, which comprises 100 parts by weight of a vinyl chloride resin, from 20 to 300 parts by weight of a nitrile rubber, from 25 to 200 parts by weight of a plasticizer, from 10 to 200 parts by weight of a filler and a curing agent for the rubber (Abstract). Kushida teaches that when a plasticizer is incorporated, the vinyl chloride resin is used in many applications as resin material for various molded products such as films, sheets, etc. (column 1, lines 25-31). Table 1 shows that the elongation of the composition is greater than 50% (column 2). Additives such as a pigment, etc. may be incorporated in a proper amount (column 5, lines 35-37).

Claims lack novelty.

5. Claims 22-24 are rejected under 35 U.S.C. 102(a) as being anticipated by Breton et al. (US 6054524).

Breton's invention is directed to a plastisol composition which comprises polyvinyl chloride, optional primary plasticiser, stabiliser, paraffinic or aliphatic solvent or

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secondary plasticiser, and powdered crosslinked nitrile rubber (Abstract). Breton also teaches that colorants (or pigments) can be added to the plastisol composition to attain the desired color (column 10, lines 47-48).

Claims lack novelty.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kushida et al. (US 5344864) either individually, or in view of Hager et al. (US 5198301).

The teachings of Kushida are again relied upon as set forth above.

For claims 15-21, although Kushida lacks an express teaching of forming an adhesive article based on a plasticized PVC film, it is believed that forming an adhesive tape based on a plasticized PVC film substrate is old and well known. Alternatively, it is noted that Hager's invention is directed to a highly flexible and conformable base film (Abstract). Hager teaches that it is known art that plasticized polyvinyl chloride film has been used in film form for numerous applications, such as adhesive tapes, etc. (column 1, lines 12-17). As such, it would have been obvious to one of ordinary skill in the art to use Kushida's plasticized PVC film as backing to form an adhesive film, motivated by the desire to obtain a highly flexible adhesive tape.

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8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In addition, the following references are cited of interest for making PVC tape and plastisol:

US 4272573 to Ewald et al. is directed to a self-adhesive tape.

US 5739203 to Ngoc is directed to a plastisol for dip coating.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

VSC
June 17, 2003

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP 1300-
1700

Daniel Zinker